



Homeland
Security

January 18, 2012

SENT VIA EMAIL TO: 1023-89403661@requests.muckrock.com

Mr. Jason Smathers
MuckRock News
Dept MR 1023
P.O. Box 55819
Boston MA 02205-5819

Re: 12-OIA-0025

Dear Mr. Smathers:

This is to acknowledge receipt of your Freedom of Information Act (FOIA) request to the Department of Homeland Security (DHS), Office of Intelligence and Analysis (I&A) dated, January 17, 2012, and received in this office on January 17, 2012, in which you are seeking "an index of HSDN and JWICS shared drive product folders. (i.e., a print screen showing the list of folders"

As it relates to your fee waiver request, I have reviewed your letter thoroughly and have determined that you have not presented a convincing argument that you are entitled to a blanket waiver of fees.

The DHS FOIA Regulations, 6 CFR § 5.11(k)(2), set forth six factors to examine in determining whether the applicable legal standard for a fee waiver has been met. We will consider these factors in our evaluation of your request for a fee waiver:

- (1) Whether the subject of the requested records concerns "the operations or activities of the government;"
- (2) Whether the disclosure is "likely to contribute" to an understanding of government operations or activities;
- (3) Whether disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or a narrow segment of interested persons;
- (4) Whether the contribution to public understanding of government operations or activities will be "significant;"
- (5) Whether the requester has a commercial interest that would be furthered by the requested disclosure; and

(6) Whether the magnitude of any identified commercial interest to the requestor is sufficiently large in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requestor.

As a requester, you bear the burden under the FOIA of showing that the fee waiver requirements have been met. Based on my review of your January 17, 2012 request and for the reasons stated herein, I have determined that your fee waiver request is deficient. You stated, "I believe this request is in the public interest". Your request, as written, does not adequately describe how the disclosure of the requested information will contribute to the understanding of the public at large, as opposed to the individual understanding of the requestor or whether the contribution to the public understanding of government operations or activities would be "significant." Since your request for a fee waiver has failed to satisfy each of the required factors, I am denying your fee waiver request.

Further, while you stated, "The requested documents will be made available to the general public free of charge as part of the public information service at MuckRock.com, processed by a representative of the news media/press and is made in the process of news gathering and not for commercial usage". You did not indicate how the disclosure of the requested information is of current interest to the public or how it supports public oversight of the government. Decisions on whether to grant or deny media status or a fee waiver are made on a case-by-case basis, and in this instance, your request does not meet the applicable standards for a waiver of fees or preferred fee status.

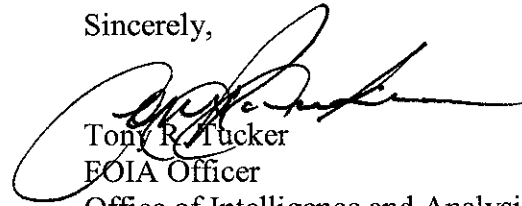
Finally, please be advised that you have been placed in the non-commercial requester category. Pursuant to the DHS implementing regulations, 6 C.F.R. § 5.11, non-commercial requestors will be charged 10-cents a page for duplication, although the first 100 pages are free, as are the first two hours of search time, after which you will pay the per quarter-hour rate (\$4.00, \$7.00, \$10.25) of the searcher. Based on this information, you must agree to pay the anticipated amount before we can begin to process your request.

You have a right to appeal the fee category designation and the determination to deny your fee waiver request. Should you wish to do so, you must send your appeal and a copy of this letter, within 60 days of the date of this letter, to: Associate General Counsel (General Law), U.S. Department of Homeland Security, Washington, D.C. 20528, following the procedures outlined in the DHS regulations at 6 C.F.R. § 5.9. Your envelope and letter should be marked "FOIA Appeal." Copies of the FOIA and DHS regulations are available at www.dhs.gov/foia.

The Office of Government Information Services (OGIS) also mediates disputes between FOIA requesters and Federal agencies as a non-exclusive alternative to litigation. If you are requesting access to your own records (which is considered a Privacy Act request), you should know that OGIS does not have the authority to handle requests made under the Privacy Act of 1974. If you wish to contact OGIS, you may email them at ogis@nara.gov or call 1-877-684-6448.

If you have any questions or would like to discuss this matter, please feel free to contact this office at 202-447-4190 and refer to **12-OIA-0025**.

Sincerely,



Tony R. Tucker
EOIA Officer
Office of Intelligence and Analysis